



April 13, 2006

Chairman Kevin J. Martin
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

RE: CG Docket No. 02-278

My name is Isabella Wilson, and I am the Controller/CFO of Financial Management Systems, located in Schaumburg, Illinois. I am a professional third party debt collector.

The purpose of this correspondence is to inform you:

- My business has been substantially harmed as a result of the Federal Communications Commission's (FCC) 2003 regulatory decision to expand the TCPA definition of **autodialer** beyond its statutory definition (the TCPA defines an autodialer as, "equipment which has the capacity to store or produce telephone numbers to be called, using a random or sequential number generator; and to dial such numbers").
- I urge you, as the chair of the FCC, to ask the Commission to grant ACA International's (ACA) request for regulatory clarification in favor of the industry as well as all taxpayers/consumers who lawfully pay for goods and services they have purchased.
- If the FCC were to not clarify this regulation in favor of the third party debt collection industry,
 - it will create yet another advantage to the call centers that are cropping up all over Southeastern Asia because it will nullify my ability to effectively use technology to make contact with consumers who *have already received benefit and have not paid their obligation for the benefit received*;
 - Significantly reduce the ability of several Federal and State government agencies and their contractors to use autodialers effectively to collect debts owed by taxpayers to the United States;
- Finally, an unfavorable ruling will clearly be against the directive of the President of the United States in the FY 2006 President's Budget of the

United States, Analytical Perspectives, which states “*The Government must adopt effective risk management techniques to keep defaults in check and increase recoveries when defaults do occur.*”

- I am aware ACA has filed a Petition for an Expedited Ruling regarding this issue in proceeding CG Docket No. 02-278 with the commission. I fully support ACA’s petition and the relief requested, including ACA’s statement of the harm to business and the federal and state governments as a result of the FCC’s rule. I believe that the FCC should not uphold an unsupportable and damaging regulatory interpretation that will encourage the evasion and non-payment of debts by prohibiting the use of autodialers to telephone consumers by way of their cell phones. To do so is contrary to the intent of Congress and all prior rulings of the FCC between 1991 and 2003 concerning this issue.
- I use autodialer functions in the specific effort to contact consumers who are delinquent in repayment of their obligations. I do not use the autodialer to solicit customers to make purchases or advertise goods.

As you know, the Telephone Consumer Protection Act (TCPA) was passed in 1991. This law was designed to protect consumers from invasive calls from telemarketers. One of the provisions of the TCPA prohibits the use of an autodialer to communicate with a consumer by way of their cell phone. Between 1991 and 2003, the **FCC consistently ruled** that this autodialer prohibition did not apply to calls made using an autodialer *if the sole purpose of the calls was to recover payments for goods and services already purchased.*

In July 2003, the FCC took a dramatic shift in its position about the applicability of the autodialer prohibition to the credit and collection industry when it expanded the statutory definition of autodialer to include predictive dialers. By expanding the definition of autodialer and *failing to restate the Commission’s prior rulings that calls made by creditors and debt collectors to consumers’ about their past due payment obligations by way of their cell phones were not subject to the autodialer prohibition*, the FCC inadvertently brought calls my company makes for the sole purpose of recovering past due payment obligations from consumers within the scope of the regulation.

One of the largest creditors in the United States is the federal government which also uses the autodialer technology to contact consumers and commercial entities – including agencies such as the Department of Housing and Urban Development, the Internal Revenue Service, the Small Business Administration, and Fannie Mae. Many Federal agencies use outside

contractors in the arena of benefits payments and management, such as the U.S. Department of Agriculture, Food and Nutrition Services, and the Department of Health and Human Services in the administration of Medicare programs who use autodialers. The FCC's shift in the use of autodialers will cause all citizens who lawfully pay their federal taxes and other payments owed to the federal government to suffer substantial harm.

The TCPA was enacted to protect consumers from unsolicited advertisements and telemarketing calls. The TCPA's prohibition against the use of autodialers to contact consumers by way of their cell phones was specifically intended to protect consumers from incurring charges as a result of unwarranted telemarketing calls being made to their wireless phones about products or services *to be purchased in the future*. There was never any intention on the part of Congress to prohibit creditors and their retained collection agencies from being able to contact consumers on their wireless phones about *a past due payment obligation for goods and services already purchased and received*.

Moreover, wireless phone usage has grown exponentially since 1991 when the TCPA was enacted. Today, more than one out of every five Americans under the age of 35 does not have a landline phone and instead uses a wireless phone as their exclusive means of telephonic communication. If allowed to stand, the long-term consequences of the FCC's decision are foreboding at best.

For these reasons, the FCC should promptly clarify that autodialer calls to wireless numbers solely to recover payment obligations are not covered by the TCPA regulations for the reasons expressed by ACA.

Sincerely,

Isabella A. Wilson
Controller/CFO
Financial Management Systems

cc: ACA International